

Abstract: Transfer of delictual liability in competition law

The issue of delictual liability for anti-competitive practices and subsequent identification of party which is to be penalized for them is, with regard to effective protection of competition, a crucial one. However, it is also a topic which is, with a few notable exceptions, often addressed only superficially. This work therefore aims to perform thorough analysis of rules applicable to transfer of delictual liability both on European and Czech national level. For this purpose, it is divided into two major and comparatively separate parts.

First of them is devoted to a detailed analysis of the European court of justice case-law related to the possibility of transfer of liability from the original infringer to a different legal entity. The aim is not only to identify particular criteria, which may affect such transfer of liability, but also to illustrate the direction in which the case-law of the European court of justice evolved and in which it is probable to continue heading in the future.

The second part of this work deals with regulation of the transfer of liability within the Czech legal framework, commencing with adoption of Act no. 63/1991 Coll., on the Protection of Competition, up to the present. Considering the decisive influence of the Czech Republic's accession to the European Union on this issue, it mainly discusses the degree to which the national rules, with regard to particular wording of the applicable Czech regulations, reflected the aforementioned case-law of the European court of justice. Analysis of relevant legal provisions and their amendments, explanatory memorandums and practical application of the rules aim to convey to what degree these regulations performed their primary function, i.e. whether they provided (resp. provide) for effective protection of the competition.